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Attorneys for Defendants
RECONTRUST COMPANY, N.A.;
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.;
THE BANK OF NEW YORK MELLON
FKA THE BANK OF NEW YORK AS TRUSTEE
FOR THE BENEFIT OF THE
CERTIFICATEHOLDERS CWMBS, INC. CHL
MORTGAGE PASS-THROUGH TRUST 2005-2
MORTGAGE PASS-THROUGH CERTIFICATES,
SERIES 2005 2;
AMERICA'S WHOLESALE LENDER;
COUNTRYWIDE HOME LOANS, INC.;
AND BAC HOME LOANS SERVICING, LP

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT
SAN JOSE DIVISION

IN RE KIMBERLY COX,

Debtor.

Case No.: 5:10-bk-61716

Chapter 7

Adversary No.: 5:11-ap-05106

IN RE KIMBERLY COX,

Plaintiff,

vs.

RECONTRUST COMPANY, N.A. ET. AL.,

Defendants.

**OBJECTION TO PLAINTIFF'S
REQUEST FOR ENTRY OF DEFAULT**

Date: June 10, 2011

Time: 2:00 P.M.

Ctrm: Courtroom 3070

Place: 280 South First Street
San Jose, CA

Judge: Hon. Charles Novack

1 Defendants Reconstit Company, N.A. ("Reconstit Company"); Mortgage Electronic
2 Registration Systems, Inc. ("MERS"); The Bank of New York Mellon FKA The bank of New
3 York as Trustee for the Benefit of the Certificateholders CWMBS, Inc. CHL Mortgage Pass-
4 Through Trust 2005-2 Mortgage Pass-Through Certificates, Series 2005-2 ("Bank of New York
5 Melon"); America's Wholesale Lender; Countrywide Home Loans, Inc. ("Countrywide"); and
6 BAC Home Loans Servicing, LP ("BAC Home Loans") (collectively "Defendants") hereby
7 object to Plaintiff Kimberly Cox's ("Plaintiff") Request for Entry of Default for the following
8 reasons.

9 Pursuant to the Federal Rules of Bankruptcy Procedure ("F.R.B.P.") Rule 7012(a)(4) the
10 effect of filing a F.R.B.P. Rule 7012(b) motion alters the time in which a responsive pleading is to
11 be filed. F.R.B.P. Rule 7012(a) states:

12 "Unless the court sets a different time, serving a motion under this rule alters these periods
13 as follows:

14 (A) if the court denies the motion or postpones its disposition until trial, the responsive
15 pleading must be served within 14 days after notice of the court's action."

16 F.R.B.P. 7012(b) further states that: "a motion asserting any of these defenses must be
17 made before pleading." Following the service of the Summons and Complaint on April 13, 2011,
18 Defendants filed a Motion to Dismiss pursuant to F.R.B.P. 7012(b) on May 13, 2011 seeking
19 dismissal based on Plaintiff's lack of standing, a lack of subject matter jurisdiction, for abstention,
20 and for failure to state a claim upon which relief may be granted. The Court has yet to rule on
21 Defendants' Motion to Dismiss, which is set for hearing on June 10, 2011. Since the Court has
22 yet to decide on Defendant's Motion to Dismiss, Plaintiff has filed a premature Request for Entry
23 of Default.

24 Defendants respectfully request that the Court enter an Order Denying Plaintiff's Request
25 for Entry of Default in this matter.
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DATED: May 20, 2011

Respectfully submitted,

SEVERSON & WERSON
A Professional Corporation

By: /s/ Adam N. Barasch
Adam N. Barasch

Attorneys for Defendants
RECONTRUST COMPANY, N.A.;
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.;
THE BANK OF NEW YORK MELLON fka
The Bank of New York as Trustee for the
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Mortgage Pass-Through Certificates, Series
2005 2; AMERICA'S WHOLESALE
LENDER; COUNTRYWIDE HOME LOANS,
INC.; and BAC HOME LOANS SERVICING,
LP